

### **REMARKS**

This amendment is submitted concurrently with a Request for Continued Examination as a response to the Final Office Action mailed April 29, 2008. In the Office Action, the Examiner notes that claims 1-20 are pending and rejected.

To facilitate expeditious prosecution of the claimed subject matter, Applicants have amended independent claims 1, 10, and 20. However, Applicants do not acquiesce to the Examiner's characterizations of the art cited by the Examiner or to Applicants' subject matter recited in the pending claims and do not concede that those amended (or cancelled). Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant response.

In view of the following discussion, Applicants submit that none of the claims now pending in the application is being anticipated under the provisions of 35 U.S.C. §103.

#### **35 U.S.C. §102 Rejection of Claims 1-5, 7-13 and 16-20**

The Examiner has rejected claims 1-5, 7-13, and 16-20 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication 2005/0028208 to Ellis et al. (Hereinafter, "Ellis"). Applicants respectfully traverse the rejection.

Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. Ellis fails to disclose each and every element of the claimed invention, as arranged in claim 1.

Specifically, Ellis fails to teach or suggest at least:

"receiving, at the particular terminal, content being transmitted on the particular channel through the distribution node of the television distribution system, wherein the content is being provided by the provider equipment to the subscriber equipment using the particular channel,"

as recited in currently pending independent claim 1 (emphasis added). In other words, as claimed, the particular terminal that is used to monitor a particular channel receives content of the particular channel that is also the content received by the subscriber equipment. Contrary to the Examiner's suggestion, Ellis does not teach or suggest that the remote user receives the content of the

particular channel. Rather Ellis merely discloses that the remote user receives information describing the content received by the subscriber (see Ellis, paras. [0136] – [0137]). Information describing the content is not the same as the content itself.

Moreover, Applicants disagree with the Examiner's interpretation that the remote user may be equated with a system operator of Applicants' claim 1. The Examiner relying on paragraph [0018] of Ellis, states that because the remote user is capable of enabling and disabling distribution of programming at the household, the remote user is in essence is the television distribution operator (see Final Office Action, page 3). This rationale is flawed.

The cited portion describes that a parent may access the program guide at work and to see whether a child watches television. Further, the parent may display a message to the child, prevent the child from viewing television, or allow the child to view television via a parental control feature. However, this is not the same as enabling or disabling distribution of programming. Using parental control features does not alter distribution of programming. The programming continues to be distributed to the household via the distribution system while its portions are merely blocked from viewing by the remote user.

Moreover, only programs that are delivered to the household according to a subscription agreement between the provider and the household are the programs that the remote user may block via the parental control feature. The remote user is a subscriber and may not alter viewings of other subscribers. At most, Ellis discloses remote monitoring by a subscriber of the subscriber's own television. However, it is a necessary characteristic of the system operator to be able to monitor various subscribers. Accordingly, Ellis does not teach or suggest the system operator of claim 1.

Furthermore assuming *arguendo* that Ellis's remote user is the Applicants' system operator, then Ellis does not teach or suggests at least:

"receiving, at a control unit, a directive for a television distribution system operator to use a particular terminal under control of the system operator and remote from the subscriber equipment to monitor a particular channel within a plurality of channels ...,"

as recited in independent claim 1 (emphasis added). The Examiner equates Applicants' directive with a command and Applicants control unit with Ellis's remote program access device. Such an interpretation simply makes no sense. On one hand, following the Examiner's rationale, the remote user is directed by a command to monitor a particular channel. On the other hand, the remote user selects which programs should be blocked at its own equipment. Thus, according to the Examiner's interpretation, Ellis teaches that a remote user determines which channel to monitor, issues a directive to himself to monitor the determined channel, and receives such directive for himself at the remote program access device. Not only does Ellis fail to teach or suggest such an arrangement, but this arrangement is not inherent from Ellis. To the contrary, using such an arrangement would involve significant waste of resources.

Therefor, Ellis does not teach or suggest each and every one of the limitations of Applicants' invention as recited in independent claim 1. As such, Applicants submit that independent claim 1 is not anticipated by Ellis and is patentable under 35 U.S.C. §102.

Independent claims 10 and 20 recite at least relevant limitations similar to those recited in independent claim 1. Accordingly, for at least the same reasons discussed above, independent claims 10 and 20 are also not anticipated by Ellis and are patentable under 35 U.S.C. §102.

Since all of the dependent claims that depend from the independent claims include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim is also not anticipated by Ellis and is patentable under 35 U.S.C. §102.

Therefore, Applicants respectfully request that the Examiner's rejection be withdrawn.

### **Rejection under 35 U.S.C. §103**

#### **Claim 6**

The Examiner has rejected claim 6 under 35 U.S.C. §103(a) as being unpatentable over Ellis in view of Simsic (U.S. Patent 6,269,484, hereinafter "Simsic"). Applicants respectfully traverse the rejection.

This ground of rejection applies only to dependent claims and is predicated on the validity of the rejection under 35 U.S.C. §102 given Ellis. Because the rejection under 35 U.S.C. §102 given Ellis has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that Simsic supplies that which is missing from Ellis to render the independent claims anticipated, this ground of rejection cannot be maintained.

Therefore, Applicants' claim 6 is patentable over Ellis in view of Simsic under 35 U.S.C. §103. The Examiner is respectfully requested to withdraw the rejection.

#### **Claims 14 and 15**

The Examiner has rejected claims 14 and 15 under 35 U.S.C. §103(a) as being unpatentable over Ellis in view of Blumenau. Applicants respectfully traverse the rejection.

These grounds of rejection apply only to dependent claims and are predicated on the validity of the rejection under 35 U.S.C. §102 given Ellis. Since the rejection under 35 U.S.C. §102 given Ellis has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that Blumenau supplies that which is missing from Ellis to render the independent claims anticipated, this ground of rejection cannot be maintained.

Therefore, Applicants' claims 14 and 15 are patentable over Ellis in view of Blumenau under 35 U.S.C. §103. The Examiner is respectfully requested to withdraw the rejection.

**CONCLUSION**

Thus, Applicants submit that none of the claims presently in the application are anticipated or obvious under the respective provisions of 35 U.S.C. §§102 or 103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall, at (732) 530-9404, so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

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